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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/660,831	09/12/2003	Anthony Holden	10014201-4	7878

7590 06/15/2005
HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins, CO 80527-2400

EXAMINER

YOHA, CONNIE C

ART UNIT PAPER NUMBER

2827

DATE MAILED: 06/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/660,831	Applicant(s) HOLDEN ET AL.	
	Examiner Connie C. Yoha	Art Unit 2827	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 21-37 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 21-37 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

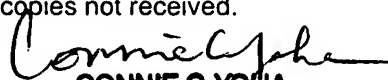
Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.


CONNIE C. YOHA
PRIMARY EXAMINER

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-20 are presented for examination.
2. Claims 1-20 are canceled.
3. Claims 21-37 are newly added.
4. Claims 21-37 are pending.

Double Patenting Rejection

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

5. Claim 21-37 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1-20 of **U.S. Patent**

No.6650562 . Although the conflicting claims are not identical, they are not patentably distinct from each other because of the reasons set forth below.

Claim 21-37 are rejected in view of claim 1-20 of the 6650562 patent. Similar to the claimed invention, claim 1-20 of the patent recites a "a device and method for

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determining the logic state of a memory cell in a MTJ memory device comprising a biasing circuit configured to supply at least two different biasing voltages to the cell; a sensing circuit configured to measure the current flowing through the cell at each of the at least two different biasing voltages; and processing element configured to determine a ratio of the current flowing through the cell at the at least two different biasing voltages and to compare the ratio to a predetermined value." As can be seen, the patent protection for the claimed invention has already been granted to the earlier filed application.

6. Claim 21-37 provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1-17, 19-22, 24-29 (renumbered 1-27) of the **US application 10/609278**. Although the conflicting claims are not identical, they are not patentably distinct from each other because: Similar to the claimed invention, claim 1-17, 19-22, 24-29 (renumbered 1-27) of the US application 10609278, recites a "a method and a system device for determining the logic state of a MTJ memory device comprising a biasing circuit configured to supply at least two different biasing voltages to the cell; a sensing circuit configured to measure the current flowing through the cell at each of the at least two different biasing voltages; and processing element configured to compare/determine a function/ratio of at least two different biasing voltages and to compare the ratio to a threshold/predetermined value."

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Chou et al (6639839) and Perner et al (6674679, Perner (6590804) disclose a MTJ memory device.

8. When responding to the office action, Applicants= are advised to provide the examiner with the line numbers and page numbers in the application and/or references cited to assist the examiner to locate the appropriate paragraphs.

9. A shortened statutory period for response to this action is set to expire 3 (three) months and 0 (zero) day from the date of this letter. Failure to respond within the period for response will cause the application to become abandoned (see MPEP 710.02 (b)).

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to whose telephone number is (571) 272-1799. The examiner can normally be reached on Mon. - Fri. from 8:00 A.M. to 5:30 PM. The examiner's supervisor, David Nelms, can be reached at (571) 272-1787. The fax phone number for this Group is (703) 872-9306. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-0956.

11. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

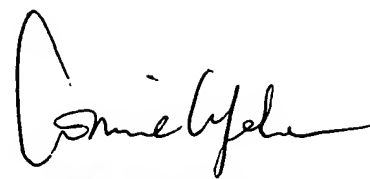
For more information about the PAIR system, see <http://pair-direct.uspto.gov> should you

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have questions on access to the Private Pair system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


C. Yoha

June 2005


CONNIE C. YOH
PRIMARY EXAMINER